

August 8, 1996

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON

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Seattle, Washington 98104  
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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL

SUBJECT: Department of Transportation File No. V-2269  
Proposed Ordinance No. 96-567

DAVID and ALBERTA RIEDEN  
Petition for Road Vacation

Road: Portions of 59th Avenue South

Petitioner(s): David and Alberta Rieden  
6024 South 298th Place  
Auburn, WA 98001

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2269 was opened by the Examiner at 1:45 p.m., July 31, 1996, in Room No. 230, Central Building, 810 Third Avenue, Seattle, Washington, and closed at 2:41 p.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

The issues are as follows:

1. Vacation of county right-of-way,
2. Wetlands, and
3. Surface water drainage.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	Portions of 59th Avenue South
Right of way classification:	C
Area:	1,086 square feet
Compensation:	\$2,834.46
2. Except as provided below, the Examiner adopts and incor-porates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner

for the July 31, 1996, public hearing and the statement of facts contained in Proposed Ordinance No. 96-567, July 1, 1996, draft. The Department's report will be attached to the copies of this report and recommendation which are submitted to the King County Council.

3. David and Alberta Rieden (the "Petitioners") request King County right-of-way vacation of a segment of 59th Avenue South, specifically:

That portion of 59th Avenue South that is adjacent to Lot 47 of Park Ridge and Park Ridge Phase II, according to the plat recorded in Volume 139 of Plats, pages 1 through 5 inclusive, in King County, Washington.

See Exhibit No. 2. The area is also described by the attached maps.

The Petitioners argue that the right-of-way is neither developed nor open and that the area is a maintenance problem. Further, now that the adjacent school site has been developed with alternative access, 59th Avenue Southeast is no longer needed in this location.

4. The Road Services Division, King County Department of Transportation, agrees with the Petitioners reasoning and recommends granting approval. In addition, the Department recommends, on the basis of a request from the Maintenance Section of its Roads Division, that a storm water drainage easement over the westerly ten feet of the vacation area be required. This storm drainage easement would accommodate continuation of an existing storm water easement located immediately south of the requested vacation area.
5. The Department issued its recommendation, as described in paragraph 2, above, one month prior to the hearing. The Petitioners did not file any objection to the Department's recommendation. The Petitioners did not appear at the hearing.
6. A neighboring property owner expressed concern regarding the following issues:
  - A. Drainage. Would the street vacation hinder future maintenance and management of the drainage system? The Department responds by noting that the north boundaries of the petitioned vacation area follows the south-westerly extrapolation of the southwest boundary of Park Ridge II, Lot No. 58. Consequently, the existing drainage facilities, most particularly an energy dissipation or erosion prevention installation of rock, will be located within remaining 59th Avenue Southeast right-of-way which will not be vacated pursuant to this petition. In addition, as noted in Finding No. 4, above, a ten foot wide recorded drainage easement along the north boundary of the petitioned vacation area will be required.
  - B. Wetlands. Would the petitioned annexation encroach upon wetlands? At present no other action is requested other than the redrawing of property ownership boundaries. In addition, this hearing record contains insufficient evidence to determine whether or not the petitioned area actually includes wetlands as defined in KCC Title 21A.
  - C. Right-of way. Will the north boundary of the petition-ed vacation area extend due west, perpendicular to the west boundary of the right-of-way? The north boundary of any vacated right-of-way may not encroach upon any area which may otherwise be sought by the owner of Park Ridge II, Lot No. 58, at some future time. In addition, this present petition may not now be changed from the configuration shown in the public notices and memoranda distributed to the various agencies and utilities having interest or expertise relevant to the petition. Any northward expansion of the petition area of 1,860 square feet shown on Exhibit Nos. 5 and 8 would now require a whole new petition. In other words, it must be approved now as shown in Department of Transportation file No. V-2269, and can not at this late stage be expanded.
7. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.

#### CONCLUSIONS:

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required

by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.

3. The administrative fee required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, together with a covenant to return the right-of-way to King County or its successor if necessary for future right-of-way. The easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.

RECOMMENDATION:

APPROVE proposed Ordinance No. 96-567; vacate the subject segment of 59th Avenue South, as described in the attached map, the Exhibits of record, and Finding No. 3, above.

RECOMMENDED this 8th day of August, 1996.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 8th day of August, 1996, to the following parties and interested persons:

David/Alberta Rieden	Jonathan Dwight
Sharon McCann	Mark Oggel/Puget Power
M.Cossette/Lakehaven Utility	F.Luno/Viacom South
C.Paras/Wash.Natural Gas	C.Price/US West
Larry Underdahl/METRO	

Tommy Burdette, KCDOT/Road Services Division  
Sharon Claussen, KC Parks Division  
Tom Eksten, Parks and Cultural Resources  
Dennis Gorley, KCDOT/Road Services Division  
Bill Hoffman, KCDOT/Transportation Planning  
Jesse Krail, KCDOT/County Road Engineer  
Roderick Matsuno, KCDOT/Road Services Division  
Lloyd Neal, KCDOT/Transportation Planning  
Jerry Peterson, Clerk of the Council  
Dave Preughschat, Property Services Division  
Lisa Pringle, DDES/LUSD, Site Plan Review  
Lydia Reynolds, KCDOT/Road Services Division  
Gary Samek, KCDOT/Transportation Planning  
Charlie Sundberg, Parks and Cultural Resources  
Paul Toliver, Department of Transportation/METRO

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before August 22, 1996. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before August 29, 1996. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE JULY 31, 1996 PUBLIC HEARING ON KING COUNTY DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION, FILE NO. V-2269, DAVID AND ALBERTA RIEDEN/PORCTIONS OF 59TH AVENUE SOUTH ROAD VACATION APPLICATION:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Dennis Gorley, of the King County Department of Transportation/Road Services Division, and Sharon McCann.

The following exhibits were offered and entered into the record:

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|----------------|---|
| Exhibit No. 1  | Petition transmittal letter, dated June 10, 1995, from Clerk of the Council, to Department of Transportation (formerly Public Works), Road Services Division  |
| Exhibit No. 2  | Petition for Vacation of a County Road (a portion of 59th Avenue South), dated received July 10, 1995/King County Council, filed by Alberta and David Rieden  |
| Exhibit No. 3  | Letter, dated June 21, 1995, from David and Alberta Rieden/petitioners, to Dennis Gorley/ Road Services Division, re: permission to move fence  |
| Exhibit No. 4  | Copy of check, dated July 8, 1995, from David Rieden, to Clerk of the King County Council, for Road Vacation Petition deposit   |
| Exhibit No. 5  | Map of Park Ridge and Park Ridge Phase II, depicting vacation area  |
| Exhibit No. 6  | Legal description of petitioner's lot: Lot 47, Park Ridge and Park Ridge Phase II   |
| Exhibit No. 7  | Letter, dated July 25, 1995, from Tami Booth/ Puget Sound Power and Light, to Tommy Burdette/ King County Department of Transportation, Road Services Division, re: proposed street vacation file No. V-2269  |
| Exhibit No. 8  | Puget Sound Power and Light response, dated August 31, 1995, dated return received September 6, 1995/Roads and Engineering Division, re: proposed vacation of portion of 59th Avenue South  |
| Exhibit No. 9  | Washington Natural Gas response, dated July 31, 1995, dated return received August 3, 1995/King County Road Engineer's Office, re: proposed vacation of portion of 59th Avenue South  |
| Exhibit No. 10 | U.S. West response, dated October 10, 1995, dated return received October 17, 1995/King County Road Engineer's Office, re: proposed vacation of portion of 59th Avenue South  |
| Exhibit No. 11 | Lakehaven Utility District response letter, dated August 2, 1995, from Mary Cossette/ Technical Support Services, to Tommy Burdette/ King County Department of Transportation, Road Services Division, re: proposed street vacation file No. V-2269   |
| Exhibit No. 12 | Viacom South Cable TV response, dated July 25, 1995, dated return received July 31, 1995/King County Road Engineer's Office, re: proposed vacation of portion of 59th Avenue South  |
| Exhibit No. 13 | METRO response, no signature date shown, no return received date stamp shown, re: proposed vacation of portion of 59th Avenue South   |
| Exhibit No. 14 | Department of Development and Environmental Services, King County Land Use Services Division response letter, dated August 14, 1995, from Lisa Pringle/Site Plan Review Section, to Jesse Krail/Department of Transportation (formerly Public Works), Road Services Division, re: road vacation petition No. V-2269 |
| Exhibit No. 15 | King County Property Services Division response, dated July 21, 1995, no return received date stamp shown, re: proposed vacation of portion of 59th Avenue South  |
| Exhibit No. 16 | Department of Transportation (formerly Public Works), King County Roads and Engineering Division response letter, dated September 28, 1995, from Aileen McManus/Traffic Engineering Section, to Tommy Burdette/Vacations and Boundaries Engineer, re: road vacation petition No.                                    |

	V-2269
Exhibit No. 17	Department of Transportation (formerly Public Works), King County Roads and Engineering Division response letter, dated September 28, 1995, from Bill Hoffman/Transportation Planning Section, to Tommy Burdette/Vacations and Boundaries Engineer, re: road vacation petition No. V-2269
Exhibit No. 18	King County Road Maintenance Section response, dated October 26, 1995, no return received date stamp shown, re: proposed vacation of portion of 59th Avenue South
Exhibit No. 19	King County Parks and Cultural Resources response, dated January 19, 1996, no return received date stamp shown, re: proposed vacation of portion of 59th Avenue South
Exhibit No. 20	King County Office of Open Space response, dated July 20, 1995, no return received date stamp shown, re: proposed vacation of portion of 59th Avenue South
Exhibit No. 21	King County Cultural Resources Division/Hist-orical Preservations response, dated July 20, 1995, no return received date stamp shown, re: proposed vacation of portion of 59th Avenue South
Exhibit No. 22	Letter, dated March 7, 1996, from Jesse Krail/ King County Road Services Division, to Clerk of King County Council, re: vacation of portion of 59th Avenue South
Exhibit No. 23	Letter, dated April 11, 1996, from Jesse Krail/ King County Road Services Division, to David and Alberta Rieden, re: vacation of portion of 59th Avenue South
Exhibit No. 24	Road vacation worksheet (V-2269.xls), dated February 22, 1996
Exhibit No. 25	Copy of check, dated April 19, 1996, from A. K. Rieden, to King County Treasurer, in the amount of \$2,834.46
Exhibit No. 26	Letter, dated June 19, 1996, from Gary Locke/ King County Executive, to Jane Hague/Chair, King County Council, re: ordinance concerning vacation of portion of 59th Avenue South
Exhibit No. 27	Copy of proposed Ordinance No. 96-567
Exhibit No. 28	King County Department of Transportation, Notice of Hearing to be held July 31, 1996, re: vacation of a portion of 59th Avenue South (file No. V-2269), dated July 2, 1996
Exhibit No. 29	Affidavit of Posting, Vacation file V-2269/ Proposed Ordinance No. 96-567, dated subscribed and sworn July 3, 1996
Exhibit No. 30	Thirteen (13) photographs, taken July 2, 1996 by King County Department of Transportation, showing proposed vacation area, property lines, and school fence
Exhibit No. 31	Letter, dated July 30, 1996, from Jonathan Dwight (vacation area property owner), read into hearing record by Sharon McCann (vacation area property owner)
Exhibit No. 32	Park Ridge Roadway and Storm Drainage map, prepared by William Finkbeiner, identified as a portion of the NW 1/4 of the SE 1/4 of Section 2, Twp 21N, Rge 4E, WM
Exhibit No. 33	Two (2) photographs, taken July 2, 1996 by King County Department of Transportation, showing proposed vacation area, property lines, and school fence
Exhibit No. 34	King County Department of Transportation, Road Services Division, report to the Hearing Examiner, prepared for the July 31, 1996 hearing on petition to vacate portions of 59th Avenue South (file No. V-2269)

RST:var  
attachments  
vacation\v-22\v-2269.rpt